

EXHIBIT 10

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CISCO SYSTEMS, INC.,) CV-14-5344-BLF
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) SEPTEMBER 30, 2015
)
ARISTA NETWORKS, INC.,) PAGES 1-38
)
DEFENDANT.)
)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE PAUL S. GREWAL
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: QUINN EMANUEL
BY: JOHN NEUKOM
MATTHEW CANNON
50 CALIFORNIA STREET, FLOOR 22
SAN FRANCISCO, CA 94111

FOR THE DEFENDANT: KEKER & VAN NEST, LLP
BY: BRIAN FERRALL
KATHERINE LLOYD-LOVETT
633 BATTERY STREET
SAN FRANCISCO, CA 94111

APPEARANCES CONTINUED ON THE NEXT PAGE

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

1 BACK TO THEIR ALLEGATIONS THOUGH, WHICH IS REALLY WHAT
2 DRIVES THIS MOTION. AS I SAID, THERE ARE ALLEGATIONS ABOUT
3 THESE COMMANDS, AND THEIR ALLEGATIONS ARE, VERY EXPLICITLY,
4 THAT THESE COMMANDS WERE PART OF A CREATIVE PROCESS BY CISCO
5 ENGINEERS OVER THE COURSE OF TWO-PLUS DECADES.

6 THEY CREATE A PROCESS, THOSE ARE CISCO'S WORDS FROM THE
7 COMPLAINT. I QUOTED PARAGRAPH 27 AND 28 OF THE COMPLAINT, BUT
8 IF YOU LOOK AT CISCO'S OPPOSITION THAT THEY FILED YESTERDAY,
9 THIS SAME POINT IS REPEATED.

10 IN FACT, IF YOU LOOK AT PAGE 2 OF THEIR OPPOSITION, YOU SEE
11 THE FACTUAL BACKGROUND, THE CISCO HISTORY OF DEVELOPMENT OF ITS
12 COPYRIGHTED WORKS, RIGHT. AND THIS IS TO BE EXPECTED, IT'S A
13 LITTLE BACKGROUND OF THE CASE AND THAT'S GREAT. IT IS
14 ESSENTIALLY A LITTLE PREVIEW OF THEIR OPENING STATEMENT AT
15 TRIAL. YOU CAN SEE IT, RIGHT.

16 "CISCO'S ENGINEERS," I'M QUOTING FROM LINE 16.

17 "CISCO'S ENGINEERS CREATED AN ELABORATE ARRANGEMENT OF
18 ORIGINAL COMMAND EXPRESSIONS, INCLUDING THE MULTIWORD COMMAND
19 EXPRESSIONS AT ISSUE HERE THAT COULD BE ENTERED INTO THE CLI."

20 DOWN TO LINE 25, "CISCO'S ENGINEERS MADE CREATIVE CHOICES
21 ABOUT HOW COMMAND EXPRESSIONS WOULD BE ARRANGED AND THE SYNTAX
22 THOSE COMMAND EXPRESSIONS WOULD EMPLOY."

23 THAT'S GOING TO BE ITS OPENING STATEMENT. SURELY, SURELY
24 WE ARE ENTITLED TO UNDERSTAND WHAT THOSE CREATIVE CHOICES WERE.

25 AND THAT'S ALL THIS MOTION IS ABOUT. IF CISCO KNOWS THAT

1 FORWARD.

2 MR. FERRALL: OF COURSE IT'S GOING TO.

3 I WILL SAY THIS, FIRST OF ALL, OF COURSE THE DISCOVERY THAT
4 MR. NEUKOM ADDRESSED IS NOT RIPE. BUT WE HAVE RESPONDED TO,
5 ALREADY, TO SOME VERY BURDENSOME ITEM-BY-ITEM FOR ALL ACCUSED
6 PRODUCTS TYPE DISCOVERY.

7 ALL ACCUSED PRODUCTS INCLUDES EVERY VERSION, EVERY VERSION
8 OF ARISTA SOFTWARE RELEASED, EVERY VERSION OF SWITCHWARE
9 RELEASED. I THINK IT'S FAIR TO SAY IT'S ALMOST ARISTA'S ENTIRE
10 BUSINESS ACCUSED IN THIS CASE. AND THAT'S MANY, MANY PRODUCTS,
11 MANY RELEASES OF SOFTWARE.

12 WE'VE PROVIDED RESPONSES ON THAT BASIS ALREADY. NO DOUBT
13 WE ARE GOING TO HAVE MORE OF THAT.

14 BUT I JUST DON'T SEE, UNLESS CISCO WANTS TO AMEND THEIR
15 CLAIM AND SAY NO, NOW WE ARE ONLY GOING TO TALK ABOUT THE
16 TAXONOMY AND EACH INDIVIDUAL COMMAND IS NOT ASSERTED, WELL THEN
17 FINE, WE'VE GOT A MUCH SMALLER CASE TO DEAL WITH.

18 BUT THAT'S NOT THE CASE WE HAVE RIGHT NOW.

19 THE COURT: I HAVE ONE OTHER QUESTION, PERHAPS I
20 SHOULD HAVE ASKED EARLIER.

21 AT THE VERY BEGINNING OF OUR CONVERSATION TODAY YOU
22 EXPLAINED TO ME THE DIFFERENT CASES AND THEIR SUBJECT MATTER.
23 AM I RIGHT THEN IN UNDERSTANDING THAT THE TWO, WHAT I WILL
24 CALL, NOT YOU, BUT WHAT I WILL CALL THE CLI RELATED PATENTS AT
25 ISSUE IN THIS CASE ARE PRESENTLY THE SUBJECT OF LITIGATION IN